



Legislation Text

File #: 14-0630, **Version:** 1

An Ordinance to Amend Sections 5.1; 5.10.12; 5:10.21; and 5:10.23 of Chapter 55 (Zoning) regarding Drive-Thru Facilities and Permitted Uses (CPC Recommendation: Approval - 9 Years and 0 Nays) (Ordinance No. ORD-14-06)

Amendments to several sections of the Zoning Ordinance are proposed to add a definition of a drive-thru facility and allow accessory drive-thru facilities as special exception uses in the O (Office), C2B (Business Service) and C3 (Fringe Commercial) districts, as well as provide basic layout requirements. The amendments also correct a reference to the C2A district, which no longer exists.

Drive-thru facilities currently are allowed as special exception uses without any further requirements in the C2B district and as permitted uses without any further requirements in the C3 district. Drive-thru facilities currently are not listed as an allowable accessory use in the O district.

The proposed amendments will make permitted and special exception uses in these three districts consistent with the intent of the districts, in addition to the City master plan recommendations for retail centers. Further, the amendments provide a definition of drive-thru facility that is widely applicable, offer guidance regarding where drive-thru facilities could be located, and reduce confusion about the approval process for a proposed drive-thru facility.

The Planning Commission recommended approval of the proposed ordinance amendments at its meeting of April 1, 2014.

Attachments: 4/1/14 Planning Staff Report and
4/1/14 Planning Commission Minutes
Prepared by: Wendy L. Rampson, Planning Manager
Reviewed by: Sumedh Bahl, Community Services Area Administrator
ORDINANCE NO. ORD-14-06

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ZONING

REGARDING DRIVE-THRU FACILITIES

AND PERMITTED USES

AN ORDINANCE TO AMEND SECTIONS 5:1, 5:10.12, 5:10.21 AND 5:10.23 OF CHAPTER 55 OF TITLE V OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Section 5:1 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:1. Definitions.

- (1) *Accessory apartment.* A dwelling unit for not more than 2 persons which is an integral part of a 1-family detached dwelling.
- (2) *Accessory use.* A land use which is incidental to a principal land use.
- (3) *Affordable housing.* Housing units where the occupant is paying no more than 30% of gross income for housing costs, including taxes and utilities.
- (4) *Agriculture.* The production of crops.
- (5) *Boarding house.* A dwelling, other than a hotel or dormitory, where lodging and meals are provided for more than 75% of the people in residence for compensation and by prearrangement for definite periods of 30 days or more.
- (6) *Building.* Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind.
- (7) *Building, accessory.* A subordinate structure, whether attached or detached, on the same lot as the principal building.
- (8) *Building, principal.* A building or group of buildings in which is conducted the main or principal use of the lot on which said building is located.
- (9) *Building coverage.* The percentage of a lot covered by buildings, including carports and parking structures. Building coverage is measured from exterior wall to exterior wall, including all structural projections except architectural features such as cornices, eaves and chimneys.
- (10) *Building frontage.* The portion of a building facing any adjacent public street.
- (11) *Building height.* The vertical distance of a building measured from the average elevation of the finished grade within 20 feet of the building to the highest point of the roof for a flat roof, to the deck line of a mansard roof, or to the midpoint elevation between eaves and ridge for a gable,

hip or gambrel roof of a building.

- (12) *Child care center.* A facility, receiving 1 or more children for care for periods of less than 24 hours a day.
- (13) *Church.* A building owned by a religious organization which is principally used for public worship.
- (14) *Dish antenna.* A signal-sending or receiving device for communicating with orbiting satellites.
- (15) *Distances between principal buildings on a lot.* In addition to the required setback lines, the horizontal distance between multiple-family buildings shall not be less than 20 feet.
- (16) *Drive-thru facility:* Any building or structure, or portion thereof, that is constructed or operated for the purpose of providing goods or services to customers who remain in their motor vehicle during the course of the transaction.
- (176) *Dwelling unit.* One or more rooms with kitchen and sanitary facilities designed as a unit for occupancy by 1 family.
- (187) *Dwelling, multi-family.* A building containing 3 or more dwelling units arranged either side by side or 1 above the other.
- (198) *Family.* An individual or group of individuals occupying a dwelling unit as a single housekeeping unit in accordance with the standards of Section 5:7
- (2019) *Family day care home.* A private dwelling in which up to 6 minor children are received for care and supervision for periods of less than 24 hours a day.
- (210) *Fraternity or sorority house.* A building used by a college fraternity or sorority as a principal place of residence for its members.
- (221) *Funeral home.* A building used for the preparation of the deceased and for ceremonies taking place prior to burial or cremation.
- (232) *Group day care home.* A private dwelling in which up to 12 minor children are given care and supervision for periods of less than 24 hours a day.
- (243) *High-water mark, ordinary.* The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.
- (254) *Home occupation.* An accessory use of a nonresidential nature which is performed within a dwelling or within an accessory building, and conducted by members of the family residing in the dwelling, and not more than 1 additional employee.
- (265) *Hotel.* A building or portion of a building containing 4 or more individual rooms, suites of rooms or dwelling units offered for transient sleeping accommodations for periods of 29 days or less and providing customary lodging services to guests, such as furnishing and upkeep of furniture and linens, concierge services and communication and fitness facilities.
- (276) *Housekeeping unit.* A dwelling unit organized as a single entity in which the members of the

household share common facilities.

- (287) *Lot*. A parcel of land, not including a public or private street, which may be a platted lot of a recorded subdivision, a site condominium lot, or a parcel of land that meets the requirements of this chapter.
- (298) *Lot, corner*. A lot or parcel of land abutting upon 2 or more streets at their intersection, or 2 parts of the same street forming an interior angle of less than 135 degrees.
- (3029) *Lot line*. The boundary of a lot.
- (310) *Lot line, front*. The lot line separating a lot from a street.
- (321) *Lot line, rear*. The lot line opposite and most distant from the front lot line; or in the case of irregularly-shaped lots, a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
- (332) *Lot line, side*. Any lot line other than a front or rear lot line.
- (343) *Lot of record*. A lot for which the deed, prior to January 1, 1963, is on record with the Washtenaw County Register of Deeds and which exists as described therein. (See section 5:61 for regulations.)
- (354) *Lot width*. The length of a straight line drawn between the points where the front setback line cuts the side lot lines.
- (365) *Lower income households*. References made collectively to low and very low income households or individuals. Encompasses all households with income levels less than 80% of City of Ann Arbor median income as defined by the United States Department of Housing and Urban Development.
- (376) *Nonconforming structure*. A lawfully-established building or structure that does not conform to the regulations of this chapter.
- (387) *Nonconforming use*. A lawfully-established use of land which does not conform to the use regulations of this chapter.
- (398) *Nursery school*. A daytime group facility which has as its main objective a developmental program for pre-school children and whose staff meets the educational qualifications as established by the State of Michigan.
- (4039) *Open space, required*. The portion of a lot between the required setback line and the lot line.
- (410) *Open space, permanent*. The portion of a lot or lots, exclusive of road rights-of-way, vehicle access and utility easements, and required storm water management, soil erosion and sedimentation control facilities, which is restricted by a recorded conservation easement or similar binding instrument. Permanent open space is intended for, but shall not be limited to, the preservation and conservation of undeveloped natural resources, natural features, scenic or wooded conditions or naturally occurring water surfaces. It may also include undeveloped greenways of contiguous or linear open space providing habitats or corridors for wildlife, or links between parks, nature reserves, cultural features or historic sites for passive recreation or conservation.
- (421) *Open space*. The portion of a lot which is devoted to outdoor recreation space, greenery, and space for household activities. Open space area may include, but shall not be limited to, lawns, landscaping and gardens, wooded areas, sidewalks and walkways, active and passive

recreational areas, unenclosed accessory structures used for recreational purposes, permanent or seasonal water surfaces and protected natural areas. It shall not include area covered by parking lots, driveways, refuse facilities, or enclosed accessory structures.

- (432) *Open space, active.* The portion of open space devoted to and suitable for outdoor recreation and household activities measuring at least 6 feet by 10 feet if intended for common or shared use by all households and at least 4 feet by 10 feet if intended for private or individual household use. Common or shared active open space may include, but shall not be limited to, lawns, sidewalks and pathways, playgrounds, fields (baseball, soccer, etc.), courts (basketball, tennis, etc.), and swimming pools. Private or individual active open space may include, but shall not be limited to, porches, decks, balconies, patios, and accessible portions of roofs. Active open space shall not include woodlands, storm water management basins, wetlands, natural features open space, conflicting land use buffers, vehicular use area interior landscape islands or screening.
- (443) *Principal use.* The primary use of any lot.
- (454) *Private school.* A building used for the purpose of elementary or secondary education.
- (465) *Public utility.* Private enterprise with a franchise for providing a public service.
- (476) *Rooming house.* A building, other than a hotel or dormitory, where for compensation and by prearrangement for definite periods, lodging is provided for more than 3 roomers.
- (487) *Rooming unit.* Any room or group of rooms forming a single habitable unit, but which does not contain cooking facilities.
- (498) *Setback, established front.* The minimum or maximum distance at which an existing building is located from the street right-of-way line.
- (5049) *Setback, required.* The minimum or maximum distance specified by this chapter which must be provided between a lot line and a structure.
- (510) *Setback line, established front.* A line parallel to the street, extending from the point at which an existing building is closest to the street right-of-way line outward to the lot lines.
- (521) *Setback line, required.* A line parallel to a property line representing the minimum required setback from that property line.
- (532) *Single-family dwelling.* A detached building containing 1 dwelling unit.
- (543) *Special exception use.* A use permitted in a particular zoning district if it conforms to specific standards outlined in this chapter.
- (554) *Story.* That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use.
- (565) *Structure.* A combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.
- (576) *Student cooperative housing.* A facility used for housing students who therein largely perform their own household maintenance and meal preparation and who have a vote in the operation, maintenance and management of their household affairs. Such housing is registered with The University of Michigan.
- (587) *Townhouse.* A building containing 3 or more dwelling units arranged side by side, separated

from each other by a firewall and having separate direct means of egress and ingress to each unit from the outside.

(598) *Two-family dwelling*. A detached building containing 2 dwelling units.

(6059) *Usable floor area, nonresidential*. Usable floor area for nonresidential uses shall be measured to the exterior face of the exterior walls for all floor areas that are accessible by a fixed stairway, ramp, escalator or elevator, which may be made fit for occupancy. The measurement shall include the floor area of any accessory buildings and above-grade parking structures, except those portions of a parking structure used for required premium or PUD parking. Below-grade parking cellar areas shall not be counted as usable floor area. For the purpose of this subsection, the definitions of cellar and grade contained in Chapter 98 of this Code shall apply.

(610) *Usable floor area, residential*. The measurement of usable floor area for residential uses shall be the sum of the area of the first floor, as measured to the exterior face of the exterior walls, plus that area, similarly measured, of all other stories having more than 90 inches of headroom that are accessible by a fixed stairway and which may be made usable for human habitation; but excluding the floor area of garages, accessory buildings, attics, breezeways and unenclosed porches.

(621) *Wireless communications antenna*. An antenna designed to transmit or receive communications as authorized by the Federal Communications Commission, excluding ancillary antennas such as citizen band antennas, ham and amateur radios, fleet type communications, satellite dishes, and personal television receiving antennas.

(632) *Wireless communications facility*. Includes wireless communications antennas or towers and all unstaffed facilities related to the use of the radio frequency spectrum for the purposes of transmitting or receiving signals, usually consisting of an equipment shelter or cabinet, support structure and/or other transmission and reception devices. This definition excludes ancillary antennas such as citizen band antennas, ham and amateur radios, fleet type communications, satellite dishes, and personal television receiving antennas.

(643) *Wireless communications tower*. A tower, including, but not limited to, self-supporting lattice, guyed, or monopole which elevates the wireless communications antenna and related transmission or receiving equipment and may include accessory transmission or receiving equipment.

Section 2. That Section 5:10.12 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:10.12. O Office District.

(1) *Intent*. This district is primarily for office buildings. The office district classification will be applied as a transitional use buffer between residential uses and uses which would be incompatible in direct contact with residential districts.

(2) *Permitted principal uses*.

(a) Executive and administrative offices for establishments whose plants, warehouses or

outlets are not permitted in the "O" district.

- (b) Any office in which goods, wares or merchandise are not commercially created, displayed, stored, exchanged or sold, such as the following:
 - 1. Business offices of a public utility, real estate, insurance, commercial or industrial establishment.
 - 2. Offices of physicians, dentists and other health practitioners; legal, engineering, architectural and surveying services; accounting, auditing and bookkeeping services.
 - 3. Finance, insurance and real estate offices; travel bureau; and banks.
 - 4. Government offices.
 - 5. Business services such as: advertising, consumer credit reporting agencies, mailing list and stenographic services, business and management consulting services.
 - 6. Office of nonprofit organizations, such as professional membership organizations, labor unions, civic, social and fraternal associations, political organizations and religious organizations.
 - 7. Veterinary hospitals and kennels providing medical, surgical, boarding, grooming and bathing facilities for small nonfarm animals such as dogs, cats and birds as a special exception use pursuant to section 5:104. All facilities must be completely enclosed in a sound proof building in such a way as to produce no objectionable odors at the lot lines.
 - 8.7. Beauty salons providing beauty treatments such as hair cutting, coloring and styling; hair removal; manicure; pedicure; skin care; and therapeutic massage. Incidental sales of products used in the salon shall occupy no more than 25% of the total floor area.
- (c) Any permitted principal use of the R4B dwelling district, subject to all of the applicable use regulations of the R4B district.
- (d) Indoor court game facilities, including, but not limited to, handball, racquetball, paddleball, squash, ping-pong and similar uses, when located in an enclosed building shall be permitted as a special exception use pursuant to section 5:104
- (ed) Artists' studios, provided no more than 25% of the total floor area of the studio is used for the display and sale of articles which are produced in the studio.
- (fe) Funeral homes.
- (gf) Private colleges, universities and other institutions of higher learning, offering courses in general, technical or religious education.
- (hg) Hotels.
- (ih) The City Council may, by resolution, designate certain dates and locations as special events temporary outdoor sales areas. The resolution shall include conditions and standards of conduct to be in force for outdoor sales and displays on private property. A property owner who wishes to conduct outdoor sales and displays on his or her private property, as provided for in the Council resolution, shall first apply for and receive a zoning compliance permit by the date designated in the resolution. The conditions and standards contained in the resolution shall be conditions of the zoning compliance permit issued to a property owner. Failure to comply with the conditions set in the resolution shall be a violation of this ordinance section and shall be grounds to revoke all permits granted to the property owner for the

duration of the special event identified in the resolution.

(3) *Special exception uses pursuant to section 5:104.*

- (a) Veterinary hospitals and kennels providing medical, surgical, boarding, grooming and bathing facilities for small nonfarm animals such as dogs, cats and birds. All facilities must be completely enclosed in a sound proof building in such a way as to produce no objectionable odors at the lot lines.
- (b) Indoor court game facilities, including, but not limited to, handball, racquetball, paddleball, squash, ping-pong and similar uses, when located in an enclosed building.
- (c) A drive-thru facility that is an accessory to a permitted principal use in the O office district, provided that the facility is not located between a street and the principal building, and the vehicular circulation to enter and exit the facility does not impair the general vehicular circulation on the site or the pedestrian circulation on and off the site.

(34) *Permitted accessory uses.*

- (a) Those allowed in the R3 district.
- (b) Incidental services may be provided within office buildings for the convenience of occupants of that building, such as news, cigar or candy stands, delicatessens, restaurants, personal service shops and similar uses, provided the following conditions are fulfilled:
 - 1. Not more than 5% of the building's usable floor area is used for incidental services.
 - 2. All such incidental services shall be situated within the interior of the building so that no part thereof shall be directly accessible from the outside of the building.
 - 3. No sign or window display shall be discernible or visible from a public sidewalk or street.

Section 3. That Section 5:10.21 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:10.21. C2B Business Service District.

- (1) *Intent.* This district is designed to provide for certain types of commercial activities which have functional and economic relationships to a central business or fringe commercial district. Such activities will include wholesale suppliers retail and supply warehouses, motor vehicle major repair and service agencies, carports and other parking establishments, equipment and machinery dealers, building materials dealers, food processing plants, farm and garden supply stores, places of entertainment or recreation, public utility facilities and retail establishments related in a peripheral manner to those of the central business district. In this district the customer may come to the particular establishment either by automobile or as an extension of

this CBD pedestrian shopping activity. Since there is little essential interdependence of activities, each establishment can have its own automobile parking area. Good traffic accessibility is essential to this district, particularly for trucks and other freight carriers. The uses permitted, because of their required contact with auto and truck traffic, would be incompatible in the central business district.

(2) *Permitted principal uses.*

- (a) Any principal use permitted in the [D1 downtown core district](#) C2A central business district.
- (b) Retail sales that may have service, repair, leasing or rental, or manufacturing facilities in connection therewith, including: new and used automobile dealers; boat and sporting good dealers; mobile home dealers; agricultural implement, garden supply and motorcycle dealers.
- (c) Retail sales, as typically incidental to contractors, in which a workshop is required for successful operation and in which the retail outlet or show room may in fact be an accessory use, such as, but not limited to: plumber, electrician, lighting fixtures, air conditioning and heating (including incidental sheet metal work), radio and television, interior decorator, reupholstery and refinishing, sign painting and awnings.
- (d) Drive-ins, such as: automobile service stations, banks, carwash, cleaners, restaurant; provided that drive-in restaurants and automobile service stations shall be permitted pursuant to the standards set forth in section 5:104
- (ed) Enclosed building for storage and repair of automobiles, trucks and construction equipment; food locker plant (including the cutting and packaging of meat or game, sale at retail, delivery of individual home orders, renting of individual lockers for home-customer storage of food, but excluding slaughtering or eviscerating thereof).
- (fe) Wholesaling, warehousing, refrigerated and general storage.
- (gf) Veterinary hospitals and kennels.
- (hg) Outdoor recreation, such as: miniature golf, golf driving ranges, commercial swimming pools, outdoor theaters and canoe liveries.

(4) *Special exception uses pursuant to section 5:104.*

- (a) [A drive-thru facility that is an accessory to a permitted principal use in the C2B business service district, provided that the facility is not located between a street and the principal building, and the vehicular circulation to enter and exit the facility does not impair the general circulation on the site or with pedestrian circulation on and off the site.](#)
- (b) [Automobile service and filling station and car washes.](#)

(34) *Permitted accessory uses.*

- (a) Those allowed in the R3 district.

Section 4. That Section 5:10.23 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as

follows:

5:10.23. C3 Fringe Commercial District.

- (1) *Intent.* The design and regulations of this district are set up to provide for certain types of commercial activities which have characteristics in common. In this district, the customer usually comes directly to the particular establishment by automobile, making a separate stop for each errand. Comparison shopping activity is less than in the central business district. Since there is little essential interdependence of activities, establishments can be dispersed over considerable areas with each establishment having its own automobile parking. Good automobile accessibility is essential to these districts. The uses permitted, because of their lack of intense pedestrian activity and their required contact with auto access, would be incompatible in the central business district.
- (2) *Permitted principal uses.*
 - (a) Any principal use permitted in the C2B business service district.
- (3) *Special exception uses pursuant to section 5:104.*
 - (a) The temporary outdoor sales or display of goods and services, not covered by section 5:10.15 (h) that cannot meet the standards of section 5:10.15(f), may be approved as a special exception use pursuant to section 5:104.
 - (b) A drive-thru facility that is an accessory to a permitted principal use in the C3 fringe commercial district, provided that the facility is not located between a street and the principal building, and the vehicular circulation to enter and exit the facility does not impair the general circulation on the site or the pedestrian circulation on and off the site.
- (4) *Permitted accessory uses.*
 - (a) Those allowed in the R3 district.

Section 5. That this ordinance shall take effect on the tenth day following legal publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of June 2, 2014.

Jacqueline Beaudry, City Clerk

John Hieftje, Mayor

I hereby certify that the foregoing ordinance received legal publication in the Washtenaw Legal News on June 9, 2014.

Jacqueline Beaudry, City Clerk